

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO.

NANCY BROOKS and
G. ALAN BROOKS,
her husband,

Plaintiffs,

v.

THE RITZ-CARLTON
HOTEL COMPANY, L.L.C.,

Defendant.

03-22165

MAGISTRATE JUDGE
DUBE

CLERK, U.S. DISTRICT COURT
CLERK, U.S. DISTRICT COURT
S.D. OF FLA - MIAMI

2003 AUG 13 AM 9:18

COMPLAINT

Plaintiffs, NANCY BROOKS and G. ALAN BROOKS, her husband, sue the Defendant, THE RITZ-CARLTON HOTEL COMPANY, L.L.C., ("RITZ"), and state:

GENERAL ALLEGATIONS

1. This is an action for money damages in excess of \$75,000.00.
2. Diversity jurisdiction is vested in this Court pursuant to 28 U.S.C. §1332.
3. Venue is proper in this forum.
4. At all times material, Plaintiff NANCY BROOKS was an adult resident of Miami, Florida, and otherwise sui juris.

5. At all times material, Plaintiff G. ALAN BROOKS was an adult resident of Miami, Florida; was the lawful husband of NANCY BROOKS, and was otherwise sui juris.

6. At all times material, RITZ was a foreign limited liability company, duly registered, with its principal place of business in Maryland. RITZ, a hotel company, does business worldwide, and RITZ owns several major hotels in the Southern District of Florida, as well as maintaining an

international sales office here.

7. At all times material, RITZ owned and operated the RITZ-CARLTON GOLF & SPA RESORT, ROSE HALL, JAMAICA, a resort property located in or near Montego Bay, Jamaica (“the Resort”). The Resort encompasses, among other facilities, a golf course and hotel, both of which were designed, built, and operated by RITZ.

8. The golf course in question, the “White Witch” course, sits on 600 acres of hilly, undulating property, and has several holes that have steep inclines or declines that must be traversed by players. However, the severe sloped areas of the course have insufficient or no warnings.

9. On or around December 14, 2002, Plaintiffs, who were guests at the Resort, decided to play golf.

10. Plaintiffs registered and paid for a round of golf, and were issued a golf cart owned by RITZ. At that time, Plaintiffs were informed by an employee or agent of RITZ that the Resort’s policy required Plaintiffs to hire a caddy, which the Resort provided. Plaintiffs were issued a caddy named “Delroy.” Delroy was the actual or apparent agent of RITZ, and at all times material was within the course and scope of his agency.

11. The twelfth hole of the course has a severe slope. After G. ALAN BROOKS teed off, Plaintiffs entered the cart and began to drive towards the drop point for the hole.

12. While in the cart, Plaintiffs encountered a severe incline. Unbeknownst to them, Delroy, a large man, had boarded the rear of the cart and was standing behind the golf bags while the cart was moving.

13. The cart began to have trouble making it up the incline. Suddenly, without warning, Delroy yelled something and jumped off of the back of the cart. The force of his jump caused the cart to flip over backwards, ejecting the Plaintiffs and injuring them. G. ALAN BROOKS fortunately

suffered minor injuries; however, NANCY BROOKS suffered severe injuries, including a broken back.

14. Employees or agents of the Resort were summoned to the scene; however, they negligently handled it in such a way as to further injure the Plaintiffs, particularly NANCY BROOKS.

COUNT I - DIRECT CLAIM OF NANCY BROOKS

15. Plaintiff realleges Paragraphs 1-14 and incorporates them herein.

16. At all times material, NANCY BROOKS was a business invitee of RITZ.

17. As such, RITZ had a duty to exercise due care for the safety of NANCY BROOKS and other Resort guests.

18. This duty included, but was not limited to, the duty to properly train and supervise its staff; the duty to properly maintain its course; the duty to warn NANCY BROOKS and other Resort guests of known dangerous conditions such as the severe slopes on the course; to properly design and construct the course so as to avoid excessive risk to guests; and to avoid taking actions that RITZ or its agents knew or should have known would or could result in injury to guests, including NANCY BROOKS.

19. The actions of RITZ as described herein breached RITZ's duty to NANCY BROOKS.

20. As a direct and proximate result of RITZ's negligence as described herein, Plaintiff suffered bodily injury, disfigurement, expenses of hospitalization and medical and nursing care, pain and suffering, mental anguish, lost wages in the past and future, loss of the ability to earn money, in the past and in the future, and loss of the ability to enjoy life, in the past and in the future. These losses are permanent and/or continuing and Plaintiff will continue to suffer these losses in the future.

COUNT II - DIRECT CLAIM OF G. ALAN BROOKS

21. Plaintiff realleges Paragraphs 1-14 and incorporates them herein.

22. At all times material, G. ALAN BROOKS was a business invitee of RITZ.
23. As such, RITZ had a duty to exercise due care for the safety of G. ALAN BROOKS and other Resort guests.

24. This duty included, but was not limited to, the duty to properly train and supervise its staff; the duty to properly maintain its course; the duty to warn G. ALAN BROOKS and other Resort guests of known dangerous conditions such as the severe slopes on the course; to properly design and construct the course so as to avoid excessive risk to guests; and to avoid taking actions that RITZ or its agents knew or should have known would or could result in injury to guests, including G. ALAN BROOKS.

25. The actions of RITZ as described herein breached RITZ's duty to G. ALAN BROOKS.

26. As a direct and proximate result of RITZ's negligence as described herein, Plaintiff suffered bodily injury, disfigurement, expenses of hospitalization and medical and nursing care, pain and suffering, mental anguish, lost wages in the past and future, loss of the ability to earn money, in the past and in the future, and loss of the ability to enjoy life, in the past and in the future. These losses are permanent and/or continuing and Plaintiff will continue to suffer these losses in the future.

COUNT III - CONSORTIUM CLAIM OF G. ALAN BROOKS

27. Plaintiff realleges Paragraphs 1-14 and incorporates them herein.
28. The actions of RITZ, as described, were negligent.
29. The negligence of RITZ, as described herein, has deprived G. ALAN BROOKS of the support, services and consortium of his wife, NANCY BROOKS.

COUNT IV - CONSORTIUM CLAIM OF NANCY BROOKS

30. Plaintiff realleges Paragraphs 1-14 and incorporates them herein.

31. The actions of RITZ, as described, were negligent.
32. The negligence of RITZ, as described herein, has deprived NANCY BROOKS of the support, services and consortium of her husband, G. ALAN BROOKS.

JURY TRIAL DEMANDED

33. Plaintiffs demand trial by jury on all issues so triable.

WHEREFORE, Plaintiffs demand judgment for money damages, court costs, prejudgment interest on all liquidated damages, and all other relief the Court sees fit to grant, after trial by jury on all issues so triable.

FEILER, LEACH &
McCARRON, P.L.
Attorneys for Plaintiff
901 Ponce de Leon Blvd.
Penthouse Suite
Coral Gables, FL 33134
Tel. (305) 441-8818
Fax (305) 441-8081
FeilerLeachPL@aol.com

By: Michael B. Feiler
Fla. Bar No. 098477

CIVIL COVER SHEET

03-22165

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM)

I. (a) PLAINTIFFS

NANCY BROOKS and G. ALAN BROOKS, her husband

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Dade
(EXCEPT IN U.S. PLAINTIFF CASES)(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
FEILER, LEACH MCCARRON, P.L. (305) 441-8818
901 Ponce de Leon Blvd., Penthouse Suite
Coral Gables, Florida 33134 *per martin leach*(d) CIRCLE COUNTY WHERE ACTION AROSE DADE, MONROE, BROWARD, PALM BEACH, MARTIN, ST. LUCIE, INDIAN RIVER, OKEECHOBEE, HIGHLANDS

II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

 1 U.S. Government Plaintiff 3 Federal Question
(U.S. Government Not a Party) 2 U.S. Government Defendant 4 Diversity
(Indicate Citizenship of Parties in Item III)

IV. ORIGIN

 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or ReopenedTransferred from
 5 another district
(specify) 6 Multidistrict LitigationAppeal to District Judge from
 7 Magistrate Judgment

V. NATURE OF SUIT

(PLACE AN "X" IN ONE BOX ONLY)

A CONTRACT	A TORTS	FORFEITURE/PENALTY	A BANKRUPTCY	A OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	A PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers Liability	PERSONAL PROPERTY	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 371 Truth in Lending	A LABOR	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> B 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 372 Other Personal Property Damage	B SOCIAL SECURITY	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 160 Stockholders Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 861 HIA (1935ff)	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 190 Other Contract	<input checked="" type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 863 DIWC/DIWV (405(g))	<input type="checkbox"/> 892 Economic Stabilization Act
A REAL PROPERTY	A CIVIL RIGHTS	PRISONER PETITIONS	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	HABEAS CORPUS:	FEDERAL TAX SUITS	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 540 Mandamus & Other		<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 550 Civil Rights		<input type="checkbox"/> A OR B
		<input type="checkbox"/> 555 Prison Condition		

VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE.
DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)28 USC 1332 *Premises liability in foreign country*

LENGTH OF TRIAL

via 5 days estimated (for both sides to try entire case)

VII. REQUESTED IN COMPLAINT:

 CHECK IF THIS IS A CLASS ACTION
 UNDER F.R.C.P. 23

DEMAND \$ Over

75000

CHECK YES only if demanded in complaint:

JURY DEMAND: YES NOVIII. RELATED CASE(S) (See instructions):
IF ANY

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE

\$150.00 887424
08/13/03